

TO AMEND THE SILETZ RESERVATION ACT TO ADDRESS THE HUNTING,
FISHING, TRAPPING, AND ANIMAL GATHERING RIGHTS OF THE CONFED-
ERATED TRIBES OF SILETZ INDIANS, AND FOR OTHER PURPOSES

DECEMBER 6, 2023.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 2839]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2839) to amend the Siletz Reservation Act to address the hunting, fishing, trapping, and animal gathering rights of the Confederated Tribes of Siletz Indians, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 2839 is to amend the Siletz Reservation Act to address the hunting, fishing, trapping, and animal gathering rights of the Confederated Tribes of Siletz Indians, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2839 amends the Siletz Reservation Act¹ to provide a process by which the Confederated Tribes of Siletz Indians and the State of Oregon may negotiate, amend, or replace the current 1980 consent decree governing the tribe’s hunting, fishing, trapping, and animal gathering rights.

The Confederated Tribes of Siletz Indians (Siletz tribe) is a confederation of more than 27 different tribes and bands of Indians from throughout western Oregon. Beginning in 1856, the tribes and bands were removed from their traditional lands to the 1.1 million acres Siletz Coast Reservation established by Executive Order on

¹ 94 Stat. 1074.

November 9, 1855.² The Siletz Reservation was diminished by various federal actions over time until the Siletz Tribe was terminated in 1954.³ In 1977, Congress enacted a bill to restore the tribe.⁴ The Act established a process for the tribe to organize. The legislation further required the Department of the Interior and the tribe to develop a plan for creating a reservation, but required any reservation to be established through an Act of Congress.⁵

As a condition reestablishing its reservation, the Siletz tribe's hunting, fishing, trapping, and animal gathering rights were limited through an agreement with the State of Oregon. On May 2, 1980, the U.S. District Court for Oregon made effective a consent decree between the tribe, the State of Oregon, and the United States that serves as the final determination of the tribe's hunting, fishing, trapping, and gathering rights. The consent decree provides limited allocations for salmon fishing and deer and elk hunting, and otherwise prohibits tribal hunting, fishing, gathering, and trapping, except as authorized under Oregon state law. After this consent decree was put in place, it was incorporated into the Siletz Reservation Act of 1980.⁶

H.R. 2839 would amend the Siletz Reservation Act to allow the State of Oregon and the Siletz tribe to amend, renegotiate, or terminate the 1980 consent decree. The 1980 consent decree remains in place until there is mutual agreement for a new agreement between both the tribe and the state. The bill also allows the tribe and Oregon to return to the U.S. District Court for the District of Oregon to request the modification or termination of the 1980 consent decree, and requires the U.S. District Court of Oregon adjudicate any change to the consent decree on the merits of the case and prevents any modification request from being dismissed from court because the matter has already been decided. Finally, the legislation also includes language preserving all other hunting and fishing treaty rights held by other treaty tribes.

COMMITTEE ACTION

H.R. 2839 was introduced on April 25, 2023, by Rep. Val Hoyle (D-OR). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Indian and Insular Affairs. On June 7, 2023, the Subcommittee on Indian and Insular Affairs held a hearing on the bill. On July 19, 2023, the Committee on Natural Resources met to consider the bill. The Subcommittee on Indian and Insular Affairs was discharged from further consideration of H.R. 2839 by unanimous consent. The bill was then ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hear-

²"Confederated tribes of the Siletz Indians", Tiller's Guide to Indian Country, Edited and Compiled by Veronica E. Velarde Tiller (2015).

³*History of the Siletz*, available at: <https://www.ctsi.nsn.us/wp-content/uploads/2020/12/CTSI-Comprehensive-Plan-2005-2015-History-Pt1.pdf>.

⁴Pub. L. No. 95–195.

⁵*Id.*

⁶Pub. L. No. 96–310.

ing by the Subcommittee on Indian and Insular Affairs held on June 7, 2023.

SECTION-BY-SECTION ANALYSIS

Section 1. Siletz Reservation Act Amendment

Section 1 amends the Siletz Reservation Act (P.L. 96–340) to include definitions; allow for amendments or successor agreements related to hunting, fishing, trapping, and animal gathering rights of the Siletz tribe, with the consent of the State of Oregon, preserves treaty rights for other tribes on the Columbia River, Willamette River, and Willamette Falls; requires the Oregon District Court to adjudicate actions related to the Consent Decree on the merits of the case; and includes a treaty rights savings clause, ensuring other tribal treaty rights are not affected by this legislation.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 2839, a bill to amend the Siletz Reservation Act to address the hunting, fishing, trapping, and animal gathering rights of the Confederated Tribes of Siletz Indians, and for other purposes

As ordered reported by the House Committee on Natural Resources on July 19, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	0	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply? No	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Mandate Effects	
		Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and \$500,000.

H.R. 2839 would amend the Siletz Reservation Act, enacted in 1980, to permit the Confederated Tribes of Siletz Indians and the state of Oregon to alter or replace the agreement defining the

tribe's right to use the land. Pursuant to that act, the tribe and the state entered into a consent decree that established limits on the hunting, fishing, and trapping rights of the tribe. Those limitations cannot be modified under current federal law.

Using information from the Bureau of Indian Affairs, CBO expects that under the bill the agency would provide technical assistance to the tribe and the state to facilitate any revisions to the agreement. CBO estimates that the cost of those efforts would not be significant; any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Julia Aman. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Siletz Reservation Act to address the hunting, fishing, trapping, and animal gathering rights of the Confederated Tribes of Siletz Indians, and for other purposes.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 2839, as ordered reported by the Committee on Natural Resources, contains no unfunded mandates as defined in the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

SECTION 4 OF PUBLIC LAW 96-340 (COMMONLY KNOWN AS THE "SILETZ RESERVATION ACT")

AN ACT to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon.

[SEC. 4. The establishment of the Siletz Reservation or the addition of lands to the reservation in the future, shall not grant or restore to the tribe or any member of the tribe any new or additional hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, on such reservation beyond the rights which are declared and set forth in the final judgment and decree of the United States District Court for the District of Oregon, in the action entitled Confederated Tribes of Siletz Indians of Oregon against State of Oregon, entered on May 2, 1980. Those rights as declared and set forth in the May 2, 1980, final judgment and decree shall constitute the exclusive and final determination of all tribal rights to hunt, fish, or trap that the Siletz Tribe or its members possess.]

SEC. 4. HUNTING, FISHING, TRAPPING, AND ANIMAL GATHERING.

(a) *DEFINITIONS.—In this section:*

(1) *CONSENT DECREE.—The term "Consent Decree" means the final judgment and decree of the United States District Court for the District of Oregon, in the action entitled "Confederated Tribes of Siletz Indians of Oregon against State of Oregon", entered on May 2, 1980.*

(2) *INDIAN TRIBE.—The term "Indian Tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).*

(3) *SILETZ AGREEMENT.—The term "Siletz Agreement" means the agreement entitled "Agreement Among the State of Oregon, the United States of America and the Confederated Tribes of the Siletz Indians of Oregon to Permanently Define Tribal Hunting, Fishing, Trapping, and Gathering Rights of the Siletz Tribe and its Members" and entered into by the United States on April 22, 1980.*

(b) *HUNTING, FISHING, TRAPPING, AND ANIMAL GATHERING AGREEMENTS.—*

(1) *IN GENERAL.—The Siletz Agreement shall remain in effect until and unless replaced, amended, or otherwise modified by 1 or more successor government-to-government agreements between the Confederated Tribes of Siletz Indians and the State*

of Oregon relating to the hunting, fishing, trapping, and animal gathering rights of the Confederated Tribes of Siletz Indians.

(2) *AMENDMENTS.*—The Siletz Agreement or any successor agreement entered into under paragraph (1) may be amended from time to time by mutual consent of the Confederated Tribes of Siletz Indians and the State of Oregon.

(3) *CONTENTS OF NEW AGREEMENT OR AMENDMENTS.*—The Siletz Agreement or any successor agreement entered into under paragraph (1) shall not provide for exclusive or primary Siletz take opportunity outside the exterior boundaries of the 1855 Executive Order Siletz Coast Reservation (as described in section 7(f)(1)(A) of the Siletz Tribe Indian Restoration Act (Public Law 95–195; 91 Stat. 1418; 130 Stat. 1364)) relative to any other federally recognized Indian Tribe, and shall not provide for new or expanded take of fishery resources in the Columbia River or in the Willamette River from its mouth to the top of Willamette Falls.

(c) *JUDICIAL REVIEW.*—In any action brought in the United States District Court for the District of Oregon to rescind, overturn, modify, or provide relief under Federal law from the Consent Decree, the United States District Court for the District of Oregon shall review the application of the parties on the merits without regard to the defense of res judicata or collateral estoppel.

(d) *EFFECT.*—Nothing in this section enlarges, confirms, adjudicates, affects, or modifies any treaty or other right of an Indian Tribe.

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